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ABSTRACT

This pamphlet provides information to family day care providers on the need to have adequate liability insurance to cover the unique risks faced by care providers. It discusses the reasons for carrying liability insurance, including protection from lawsuits and medical claims by the parents of injured children. The pamphlet then explains what to look for when considering a specific policy or insurer, such as who is covered, what is covered, exceptions, and deductibles. It also explains the difference between occurrence policies, which cover incidents that occur during the term of the policy, and claims made policies, which only cover claims reported during the term of the policy. The pamphlet presents alternatives to stand-alone liability policies, including self-insurance and riders to homeowner policies. It concludes by offering tips on finding affordable family child care liability insurance, providing the names, addresses, and telephone numbers of four insurers. (MDM)

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LIABILITY INSURANCE FOR FAMILY CHILD CARE PROVIDERS

BACKGROUND:

Carrying insurance is something most of us take for granted and have in many forms. If we own a house, we have a homeowner's policy on the house and its contents. If we rent a house or apartment, we have renter's insurance. There is insurance required for our automobiles, trucks, and boats, and most of us carry some form of life insurance, health insurance and/or disability insurance.

There is another form of insurance, however, that both large and small businesses carry - commercial liability insurance. This protects against loss of the business. Liability policies may include medical and accident insurance. If the policy does not include these coverages, you may need separate policies.

Often, family child care providers, who are small business owners operating from their home, do not understand either the need for or the value of carrying business liability insurance. And, unfortunately, even when providers want to be properly covered in their business, they cannot find comprehensive, affordable family child care liability insurance.

The issues around family day care liability insurance are not new. Providers have had trouble getting and keeping liability insurance on their business more for than twenty years. Highly publicized child abuse cases involving day care centers in the mid 1980's caused liability insurance for child care providers to almost vanish for several years. Providers have had to endure lack of availability, very high premiums, limited options for coverage, and cancellation without any notice or cause.

In addition, providers have had to also worry about having their homeowner or renter policy cancelled without notice or cause. The insurance companies writing the homeowner or renter insurance fear being named in a lawsuit stemming from the family child care business, sometimes even when the provider is also carrying commercial liability insurance.

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WHY PROVIDERS SHOULD CARRY BUSINESS LIABILITY INSURANCE:

Starting and operating a business means taking a risk. You are financially vulnerable. When you carry business liability (and accident) insurance, you are sharing the risk. Taking care of other people's children in your home for compensation is a small business. You are an entrepreneur! Just as with any other business, you want to protect your income and your business. The cost of business liability insurance **is a deducible business expense.**

IMPORTANT FACT! The standard homeowner's policy excludes coverage for a family child care business in the home. Your homeowner insurance company is likely to cancel your policy if they have knowledge of the family child care business in your home.

FAMILY CHILD CARE PROVIDERS FACE UNIQUE RISKS AND FINANCIAL LOSS:

- o Providers could be expected to pay the doctor bills for a day care child injured in their home.
- o Providers could be liable for injuries to a day care child being transported in their automobile.
- o Providers might have to defend themselves in a lawsuit brought about by the parent-client of a day care child, even when the provider is not at fault.
- o Providers could be required to pay damages in a lawsuit.
- o Depending on the state, claims can be filed against the provider until the injured child reaches 18 or 21 years of age.

WHAT TO LOOK FOR IN A FAMILY CHILD CARE LIABILITY POLICY:

Most of us find the world of insurance complicated. We are intimated by the various options, kinds of coverage, insurance company ratings and the terminology in the policy. The following are things you should look for in a day care insurance policy:

- o Are you covered? Is your spouse? Is your assistant?
- o Are your own children covered?
- o In your absence, is a substitute provider covered?
- o If you rent your home, is your landlord covered?
- o How many day care children are covered?

- o Does it cover overnight care?
- o Does it cover field trips or other times when you and the children are away from your own home?
- o Are swimming pools and/or pets in the home covered?
- o Are the children and you adequately covered while being transported in your vehicle?
- o Are the children covered while waiting for the school bus? Or, walking to and from school?
- o Is there a deductible? If so, how much and what are the conditions?
- o Does it include coverage for accidents and medical cost?
- o Does the policy cover claims reported after the it expires, even after you are no longer in the family child care business? [See definition of occurrence vs. claims made policies below.]

Broad professional liability/negligent supervision liability coverage should include legal defense of allegations of sexual abuse, incidental malpractice, personal injury (protection against libel, slander, false arrest), alienation of affection, contractual liability, and products liability (preparing and serving food).

DIFFERENCE BETWEEN OCCURRENCE AND CLAIMS MADE POLICIES:

An **occurrence policy** is defined as coverage from harm suffered by others because of events occurring while a policy is in effect, regardless of when a claim is actually made. This type of policy, the most common form of child care liability insurance, is offered by most insurance companies. Provided the incident in question occurred during the contract term of the policy, a claim may be made even after the policy has lapsed. [CCAC, 92]

Although a business may purchase an occurrence policy and never change it, policies must be reviewed and updated on a regular basis to reflect changes in risk and to prevent the coverage from becoming outdated. For example, the $100,000 of coverage purchased and appropriate in 1975 might be totally inadequate for a claim filed in 1995. [CCAC, 92]

A claims made policy covers incidents that occur during the time the policy is in effect, like an occurrence policy. HOWEVER, UNLIKE AN OCCURRENCE POLICY, A CLAIMS MADE POLICY WILL ONLY COVER CLAIMS THAT ARE ALSO **REPORTED DURING** THE POLICY TERM. If a pro-

vider is not insured with the insurance company when a law suit is actually filed, s/he will not have any protection. [CCAC, 92]

OTHER WAYS PROVIDERS CAN PREPARE FOR THE LIABILITY RISK:

Family child care providers can choose to prepare for the liability risk through **self-insurance.** This means the provider establishes a fund to be used in the event of a liability claim. To self-insure, a provider would need to establish funds of at **least $300,000** as a minimum. Insurance companies usually offer liability coverage up to as much as $1,000,000.

Another option is adding a day care business rider to the homeowner policy. This extends the liability coverage on that policy. Beware! Only a few insurance companies offer these riders. Premiums for the rider can be as low as $30 or as much as $170 [in addition to your homeowner policy costs]. However, homeowner policy riders have limitations. Common restrictions are:

- o No more than 3 - 6 children, depending upon the insurance company (not including the provider's own children).
- o Only covers activities in the home.
- o Excludes defense of mental, physical or sexual abuse claims.
- o Additional premium is NOT a business tax deduction.

IMPORTANT FACT! Waiver's and Hold Harmless Agreements signed by parents will not usually shield a provider from legal liability in the event of an accident or claim. Parents cannot legally sign away a child's right to liability.

FINDING AFFORDABLE FAMILY CHILD CARE LIABILITY INSURANCE:

Often, the only requirements a provider must meet to purchase commercial business liability insurance are that the provider meets state regulatory standards and the underwriting requirements of the insurance company. However, some companies could require a photograph of the premises and/or an inspection of the premises to ensure your program meets the insurance company's safety standards.

Providers can enhance their insurability by practicing risk management. Childproof the home, take CPR and first aid courses, avoid fire hazards and document fire drills, have operational fire extinguishers and smoke detectors, and cover electrical outlets.

The cost of liability insurance for your family day care business varies from company to company. It generally runs between $200 and $1,200 per year, depending on the limit of liability selected ($300,000, $500,000, $1,000,000), the deductible amount (if there is one), the number of children being covered, and additional coverage such as your automobile.

Before selecting the policy that is right for your family child care business, request information from several insurance companies which offer this kind of insurance. NOT ALL OF THESE COMPANIES WRITE INSURANCE POLICIES IN ALL OF THE STATES. The following companies offer family day care liability insurance:

Affiliated Family Daycare Homes, Inc.
Thomco Insurance Enterprises, Inc.
P.O. Box 723035
Atlanta, GA 31139
(404) 261-3811 [GA]
(800) 476-4940 [National]

Child Care Services System
Adults & Childrens Alliance
2885 Country Drive, Ste. 165
St. Paul, MN 55117
(612) 481-9320 [MN]
(800) 433-8108 [National]

National Care Providers Insurance, Inc.
DC Insurance Services, Inc.
15250 Ventura Blvd., Ste 910
Sherman Oaks, CA 91403-3288
(818) 905-0311 [CA]
(800) 423-9733 [National]

North American Insurance Agency
Att: Brigitte Hasley
P.O. Box 5234
Englewood, CO 80155
(800) 748-3826

This list is by no means complete and other companies in your area may also offer liability insurance for your family child care business. Contact your local family child care association, child and adult care food program sponsor, child care resource and referral agency, or the insurance department in your state for information.

REFEREMCES:

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The Children's Foundation does not recommend or endorse one policy or one company more than another. The intent of this fact sheet is to provide general information to assist family child care providers in making an informed decision about their business insurance needs.

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